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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,006	05/29/2002	Holger Zimmermann	10191-1957	2846
26646	7590	04/13/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			DINH, TAN X	
			ART UNIT	PAPER NUMBER
			2653	

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/937,006

Applicant(s)

ZIMMERMANN ET AL.

Examiner

TAN X. DINH

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

- 1) The amendment filed 1/24/2005 is acknowledged.
- 2) The drawings were received on 1/24/2005. These drawings are acceptable by the Examiner.
- 3) The indicated allowability of claims 7-12 is withdrawn in view of the newly discovered reference(s) to YAMADA (5,737,284). Rejections based on the newly cited reference(s) follow.
- 4) Claims 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "this track" (claim 7, line 10; claim 10, line 15) is unclear and cannot be understood. Is "this track" indicated to "current track" or "selected track" ?.

The phrase "starting position" (claims 7 and 10) is unclear. The claims recite a method and device for performing track skip from a current track to a selected track but later states that " the time required for the track skip from start position to the selected track" which is inconsistent. Is this "starting position" is current track ?.

Claim(s) 8,9,11 and 12 incorporate the indefiniteness of claim(s) 7 and 10 by virtue of their dependency thereon.

- 5) The following is a quotation of the appropriate

paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

6) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7) Claim 7, as understood by the meaning of 112, 2nd above, is rejected under 35 U.S.C. 102(b) as being anticipated by YAMADA (5,737,284).

YAMADA discloses a method for performing a track skip of a read device between a current track and a selected track of an optical storage disk inserted in a playback device as claimed in claim 7, comprises the steps of:

determining a time for the track skip of the read device as a function of tracks to be skipped in this instance (column 4, lines 43-53);

moving the read device for a determined time in a direction of the selected track (Fig.3, optical pick up 12 moves in direction of selected track in program area);

moving the read device in a direction of a lead-in area of the optical storage disk until a starting position is detected, in response to a track skip request (column 4, lines 53-56);

wherein the time required for the track skip from the starting position to the selected track is determined from this track (column 4, line 56 to column 5, line 14. In this case, the

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controller calculates the number of tracks between start position to selected track, the time required for track skip is the number of tracks from start position to selected track).

8) Claims 8 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9) Claims 10-12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

10) Applicant's arguments with respect to claims 7-12 have been considered but are moot in view of the new ground(s) of rejection.

11) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See form PTO-892 attached herein).

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR §1.111(c).

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN X. DINH

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whose telephone number is (571) 272-7586. The examiner can normally be reached on Monday - Friday, 8:00AM - 5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER

April 12, 2005